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Michael J. Shortley, III
Senior Corporate Attorney



RochesterTel

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ORIGINAL
FILE

September 1, 1992

BY OVERNIGHT MAIL

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

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MAIL BRANCH

Re: RM-8012

Dear Ms. Searcy:

Enclosed for filing please find an original plus nine (9) copies of the Response of Rochester Telephone Mobile Communications to Petition for Rulemaking in this proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

cc: Downtown Copy Center

(2942P)

0+9

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SEP - 2 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Policy and Rules Pertaining to the
Equal Access Obligations of Cellular
Licensees

RM-8012

RESPONSE OF ROCHESTER TELEPHONE
MOBILE COMMUNICATIONS TO PETITION
FOR RULEMAKING

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MAIL BRANCH

JOSEPHINE S. TRUBEK

Attorney for Rochester Telephone
Mobile Communications

180 South Clinton Avenue
Rochester, New York 14646
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Michael J. Shortley, III
of Counsel

September 1, 1992

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

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Equal Access Obligations of Cellular
Licensees

RM-8012

RESPONSE OF ROCHESTER TELEPHONE
MOBILE COMMUNICATIONS TO PETITION
FOR RULEMAKING

Rochester Telephone Mobile Communications ("RTMC")^{1/}
submits this response to the Petition for Rulemaking filed by
MCI Telecommunications Corporation ("MCI").^{2/} MCI requests the
Commission to require all cellular licensees to offer equal
access to their subscribers. The Commission should decline to
initiate the requested rulemaking.

^{1/} RTMC, a New York limited partnership, is the wireline
licensee in the Rochester, New York Metropolitan
Statistical Area. RTMC is affiliated with other companies
that also provide cellular service in the states of
Alabama, Illinois, Kansas and New York.

^{2/} Policies and Rules Pertaining to the Equal Access
Obligations of Cellular Licensees, RM-8012, Petition for
Rulemaking (June 2, 1992) ("Petition").

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MAIL BRANCH

In support of its Petition, MCI makes only generalized assertions that equal access will benefit cellular subscribers^{3/} and relies upon analogies to the equal access obligations of exchange carriers and of Bell company cellular carriers.^{4/} Both analogies are inapposite and the alleged benefits that MCI posits are minimal at best.

An equal access obligation makes sense in the context of traditional landline service. A telephone subscriber typically does not have the ability to choose an exchange carrier. Absent an equal access obligation, there would be no assurance that the subscriber could obtain interexchange services on advantageous terms and conditions. That circumstance does not exist in the cellular business. Customers may choose their cellular carrier and may do so based upon the overall cost of service, including interexchange service, offered by that carrier. If one cellular provider overcharges its customers for interexchange services, those customers may easily change cellular carriers.

In addition, by aggregating all of their customers' interexchange traffic, cellular carriers may secure volume discounts from interexchange carriers and flow those savings

^{3/} Petition at 5-6.

^{4/} Id. at 4-5.

through to their customers. Adopting MCI's proposal would effectively eliminate this opportunity.

Moreover, because cellular is a competitive service, if equal access becomes important to customers, the market will insure that cellular carriers offer that service. If one cellular carrier fails to meet marketplace demand, the other surely will and effectively force the first to do the same. To date, customers of the non-Bell cellular carriers have not expressed any demand for equal access. Thus, there is no reason to require the non-Bell cellular carriers to offer a service that customers apparently do not want.

Finally, the existence of an equal access obligation on the part of the Bell cellular companies itself provides no basis to extend that obligation to other cellular carriers. The Bell telephone companies' equal access obligations arose from the settlement of the AT&T antitrust litigation.^{5/} The non-Bell telephone companies, and hence their cellular affiliates, were not parties to that litigation and should not have obligations imposed upon them merely as a result of the AT&T consent decree.

The application of the decree's equal access obligations to the Bell companies' cellular operations can best be

^{5/} United States v. Am Tel. & Tel. Co., 552 F. Supp. 131 (D.D.C. 1982), aff'd mem., 460 U.S. 1001 (1983).

described as an accident. When the proposed decree was signed, in January 1982, the parties -- AT&T and the United States -- assumed that the to-be-divested Bell telephone companies would be limited to the provision of landline telephone service.^{6/} Thus, to the extent that this matter was ever considered at the time, the assets used in the provision of cellular service would have remained with AT&T. However, the Plan of Reorganization^{7/} assigned the assets and personnel related to the cellular business to the Bell companies. Because cellular fell within the decree's literal definition of exchange service,^{8/} the equal access obligation followed. This historical accident provides no basis for the Commission to create new obligations for the non-Bell cellular carriers and MCI has otherwise failed to justify its request.

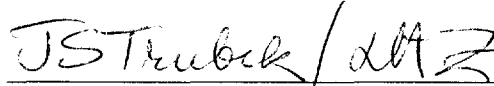
^{6/} 552 F. Supp. at 186-87.

^{7/} See United States v. Eastern Elec. Co., 569 F. Supp. 1057 (D.D.C.); aff'd mem., 464 U.S. 1013 (1983).

^{8/} 552 F. Supp. at 228, 229; Decree, §§ IV (F), (G), (O).

For the foregoing reasons, the Commission should decline to initiate the rulemaking requested by MCI.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "JSTrubek / LLAZ", is written over a horizontal line.

JOSEPHINE S. TRUBEK

Attorney for Rochester Telephone
Mobile Communications

180 South Clinton Avenue
Rochester, New York 14646
(716) 777-6713

Michael J. Shortley, III
of Counsel

September 1, 1992

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of September, 1992, I caused copies of the foregoing Response of Rochester Telephone Mobile Communications to Petition for Rulemaking to be served on the party listed below by depositing same with the United States Post Office, postage prepaid, first class mail.

Michael J. Shortley III
Michael J. Shortley, III

Larry A. Blosser
Donald J. Elardo
MCI TELECOMMUNICATIONS CORP.
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Attachment

(2942P)